

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GREGORY NICHOLAS STESHENKO,)	Case No. 5:09-cv-05543-RS
)	
Plaintiff,)	ORDER GRANTING-IN-PART
)	MOTION TO COMPEL
v.)	
)	(Re: Docket No. 821)
THOMAS MCKAY, et al.,)	
)	
Defendants.)	

Plaintiff Gregory Nicholas Steshenko has designated himself as an expert witness as to the technological and scientific principles of the devices he operated in a clinical environment, the procedures he performed in a clinical environment and the condition of electrical engineering employment in the United States.¹ However, Steshenko refuses to appear for a deposition on his expert opinions unless he is paid an expert witness fee of 200 dollars per hour.² Steshenko also refuses to supplement his report of his opinions.

Because he has been identified as an expert whose opinions may be presented at trial, Defendants may depose Steshenko without paying a fee.³ Fed. R. Civ. P. 26(b)(4)(E) requires “a

¹ See Docket No. 785.
² See Docket No. 821 at 2.
³ Fed. R. Civ. P. 26(b)(4)(A).

1 reasonable fee,” but not if “manifest injustice would result.” Because Steshenko is an interested
2 party to this case, it is unjust to require Defendants to pay him any fees. This is especially true
3 given the timing of Steshenko’s disclosure.

4 But Steshenko need not produce any written summary of the facts and opinions he intends
5 to provide at trial as an expert witness. On balance, the court is persuaded that Defendants can
6 secure whatever additional information about Steshenko’s expert opinions through the deposition
7 authorized above.

8 **SO ORDERED.**

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10 Dated: November 24, 2014

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12 PAUL S. GREWAL
13 United States Magistrate Judge
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